

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**CHARLESTON DIVISION**

**DONTE BERNARD BAKER,**

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)

**Petitioner,**

)

**v.**

)

**Civil Action No. 2:15-02703**

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**TERRY O'BRIEN,**

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)

**Respondent.**

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**MEMORANDUM OPINION AND ORDER**

Pending before the Court is Petitioner's "Motion to Transfer Venue to the Northern District of West Virginia" (Document No. 4), filed on August 12, 2015.

On March 9, 2015, Petitioner, acting *pro se*, filed his Application to Proceed Without Prepayment of Fees and Costs and Application for Writ of *Habeas Corpus* by a Person in Federal Custody under 28 U.S.C. § 2241. (Document Nos. 1 and 2.) On August 12, 2015, Petitioner filed his "Motion to Transfer Venue to the Northern District of West Virginia." (Document No. 4.) Specifically, Petitioner states that he is incarcerated at USP Hazelton, which is located in the Northern District of West Virginia. (*Id.*) Petitioner contends that "[t]he district court where the petitioner's custodian is located is the court having jurisdiction over such a request for habeas relief." (*Id.*)

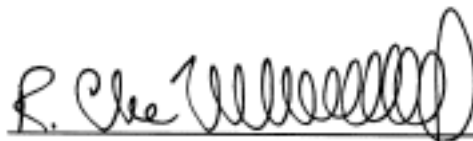
Pursuant to 28 U.S.C. § 2241(a), a writ of *habeas corpus* "may be granted by the Supreme Court, any justice thereof, the district court and any circuit judge *within their respective jurisdictions.*" 28 U.S.C. § 2241(a)(emphasis added). Title 28 U.S.C. § 2242 provides that a petitioner should name "the person who has custody over him" as the respondent to his *habeas* petition. 28 U.S.C. § 2242. The custodian is "the person with the ability to produce the prisoner's

body before the habeas court.” Rumsfeld v. Padilla, 542 U.S. 426, 434, 124 S.Ct. 2711, 159 L.Ed.2d 513 (2006). The Court finds that Petitioner is currently incarcerated at FCI Hazleton, which is located in Bruceton Mills, West Virginia. This Court, however, does not have jurisdiction over Petitioner’s current warden, who is located in the Northern District of West Virginia. Jurisdiction with respect to the claims which Petitioner raised herein is therefore in the Northern District of West Virginia. Accordingly, the Court finds that the transfer of this matter is in the interest of justice and therefore warranted. See 28 U.S.C. § 1631.

Accordingly, it is hereby **ORDERED** that Petitioner’s “Motion to Transfer Venue to the Northern District of West Virginia” (Document No. 4.) is **GRANTED** and this matter is **TRANSFERRED** to the Northern District of West Virginia pursuant to 28 U.S.C. § 1631. The Clerk is directed to **REMOVE** this matter from the Court’s docket.

The Clerk is further directed to send a copy of this Memorandum Opinion and Order to Petitioner, who is acting *pro se*, and the Clerk of the Court for the United States District Court for the Northern District of West Virginia.

ENTER: August 17, 2015.

  
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R. Clarke VanDervort  
United States Magistrate Judge